

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

WILLIAM T. WEBSTER,

Plaintiff,

vs.

PATRICK C. HINKLE, *et al.*,

Defendants.

2:05-cv-1538-KJD-(RJJ)

REPORT & RECOMMENDATION  
OF UNITED STATES  
MAGISTRATE JUDGE

This matter is before the undersigned Magistrate Judge on an Application to Proceed *In Forma Pauperis* (#1).

The Court having reviewed this matter, makes the following findings:

1. On November 27, 2006, the Court entered an Order (#2) setting a hearing for December 15, 2006, at 1:30 P.M. on the Application to Proceed *In Forma Pauperis* (#1).
2. Petitioner was served by certified mail with a copy of the Order (#2) setting the hearing. *See*, Certified Mail Receipt (#3).
3. On December 9, 2006, Petitioner, William T. Webster, signed for the Certified Mail. *See*, Certified Mail Receipt (#5).
4. Petitioner William T. Webster, did not appear at the hearing scheduled for December 15, 2006, and further, failed to provide the Court with a reason for his non-attendance at said hearing.
5. Petitioner has failed to prosecute this case pursuant to LR 41-1 as there has been no action in this matter for over one year.

1 Good cause appearing therefore,

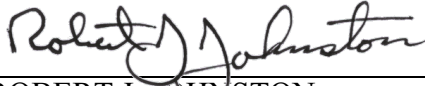
2 **RECOMMENDATION**

3 IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this matter  
4 be dismissed for failure of the Petitioner to comply with the Court's Order (#2) and failure to  
5 prosecute pursuant to LR 41-1.

6 **NOTICE**

7 Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and  
8 Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days  
9 after service of this Notice. The Supreme Court has held that the courts of appeal may determine  
10 that an appeal has been waived due to the failure to file objections within the specified time.  
11 Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986). This Circuit has also  
12 held that (1) failure to file objections within the specified time and (2) failure to properly address  
13 and brief the objectionable issues waives the right to appeal the District Court's order and/or  
14 appeal factual issues from the order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th  
15 Cir. 1991); Britt v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

16 DATED this 12<sup>th</sup> day of February, 2007.

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20 ROBERT J. JOHNSTON  
21 United States Magistrate Judge  
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